

HOUSE BILL 822
By Head

AN ACT to amend Tennessee Code Annotated, Title 67, Chapter 6, relative to taxation of telecommunications services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 6, Part 5, is amended by adding the following section:

Section 67-6-533.

(a) In the case of a bundled transaction of services that includes telecommunications services, if the price is attributable to services that are taxable and services that are nontaxable, the portion of the price attributable to the nontaxable services shall be subject to tax unless the provider can reasonably identify such portion from its books and records kept in the regular course of business.

(b) In the case of a bundled transaction of services that includes telecommunications services, if the price is attributable to services that are subject to tax at different rates, the total price shall be treated as attributable to the services subject to tax at the higher rate unless the provider can reasonably identify the portion of the price attributable to the services subject to tax at the lower rate from its books and records kept in the regular course of business.

(c) In the case of a bundled transaction of services that includes telecommunications services, if the price is attributable to services that are subject to tax at the same rate but the tax proceeds resulting from different services are dedicated to different funds or purposes, the provider shall allocate such price between or among the respective services either:

(1) By reasonably identifying the portion of the price attributable to each of the respective services from its books and records kept in the regular course of business; or

(2) Based on a reasonable allocation methodology approved by the commissioner.

(d) For purposes of this section, a provider shall be deemed to have reasonably identified the portion of the price attributable to a service or services from its books and records kept in the regular course of business if such identification is based on either:

(1) The proportion of aggregate relevant revenues received by the provider from the sales of such service or services for the entire prior calendar or fiscal year ending no less than six (6) months prior to the due date of the return for which such identification is used; or

(2) At the election of the provider, a reasonable allocation methodology approved by the commissioner.

SECTION 2. The provisions of section 1 of this act shall be effective with respect to bills submitted by telecommunications services providers to their customers that are dated on or after January 1, 2004, the public welfare requiring it. For all other purposes, the remaining provisions of this act shall take effect upon becoming a law, the public welfare requiring it.